

**BRIGHAM CITY PLANNING COMMISSION MEETING
TUESDAY, JULY 17, 2007 – 6:30 PM
BRIGHAM CITY COUNCIL CHAMBERS**

PRESENT:	Steve Hill	City Council Liaison
	Reese Nielsen	Vice-Chairman
	Miles Brown	Commissioner
	Bill McGaha	Commissioner
	Barbara Poelman	Commissioner
	Roger Handy	Alternate
	Lynda Berry	Alternate
CITY STAFF:	Mark Teuscher	City Planner
	Eliza McGaha	Administrative Secretary
EXCUSED:	Kevin Lane	Chairman
	David Hipp	Commissioner
	Joan Peterson	Commissioner
	Kathy Philpot	Alternate

AGENDA

WORK SESSION – AGENDA REVIEW

REGULAR MEETING

PLEDGE OF ALLEGIANCE

APPROVAL OF WORK SESSION MINUTES AND REGULAR MEETING MINUTES

APPLICATION #2865 / PUBLIC HEARING / KOTTER CANYON SUBDIVISION PHASE I, PRELIMINARY PLAT / 1400 NORTH MAIN / KOTTER CANYON ESTATES LLC

APPLICATION #2944 / PUBLIC HEARING / KOTTER CANYON P.U.D. SUBDIVISION PHASE II, PRELIMINARY PLAT / 1350 NORTH 225 EAST / JAY KOTTER & DEAN HOWARTH

APPLICATION #2942 / CONDITIONAL USE PERMIT – HOME OCCUPATION / PRESCHOOL / 106 NORTH 100 EAST / REBECCA ULLMAN

PUBLIC INPUT:

DISCUSSION:

REGULAR MEETING

Commissioner Nielsen opened the regular meeting at 6:32 p.m. and led the Pledge of Allegiance.

APPROVAL OF WORK SESSION MINUTES AND REGULAR MEETING MINUTES

In the title of the February 20, 2007 work session minutes, '6:30' needs to be changed to '6:00'.

MOTION: A motion was made by Commissioner Poelman to accept the work session minutes of the February 20, 2007 meeting, as amended. The motion was seconded by Commissioner McGaha and passed unanimously.

On page 2, line 71, at the end of the line, the word 'The' needs to be changed to 'They'.

MOTION: A motion was made by Commissioner Poelman to accept the regular meeting minutes of the February 20, 2007 meeting, as amended. The motion was seconded by Commissioner McGaha and passed unanimously.

MOTION: A motion was made by Commissioner Poelman to accept the work session minutes of the April 17, 2007 meeting. The motion was seconded by Commissioner McGaha and passed unanimously.

MOTION: A motion was made by Commissioner Poelman to accept the regular meeting minutes of the April 17, 2007 meeting. The motion was seconded by Commissioner McGaha and passed unanimously.

MOTION: A motion was made by Commissioner Poelman to accept the work session minutes of the May 15, 2007 meeting. The motion was seconded by Commissioner Brown and passed unanimously.

On page 6, line 348, the word 'clatter' should be changed to 'clamor'.

MOTION: A motion was made by Commissioner Brown to accept the regular meeting minutes of the May 15, 2007 meeting, as amended. The motion was seconded by Commissioner Poelman and passed unanimously.

MOTION: A motion was made by Roger Handy to accept the work session minutes of the June 05, 2007 meeting. The motion was seconded by Lynda Berry and passed unanimously.

MOTION: A motion was made by Roger Handy to accept the regular meeting minutes of the June 05, 2007 meeting. The motion was seconded by Lynda Berry and passed unanimously.

MOTION: A motion was made by Roger Handy to accept the work session minutes of the July 03, 2007 meeting. The motion was seconded by Lynda Berry.

Discussion: Commissioner Nielsen asked if the motion could be seconded by someone who was not in attendance at that meeting. Mr. Teuscher suggested having someone that was in attendance at that meeting make the second on the motion. Action on the July 03, 2007 meeting was deferred until the next meeting. The motion and its second were withdrawn.

APPLICATION #2865 / PUBLIC HEARING / KOTTER CANYON SUBDIVISION PHASE I, PRELIMINARY PLAT / 1400 NORTH MAIN / KOTTER CANYON ESTATES LLC

This application had to undergo a revision due to further understanding of the wetlands issue. Because of the redesign, the overall number of units is still the same; there are ~~less~~ fewer patio homes and more single family lots. This is a Planned Unit Development. Patio homes have no basements and are built on a slab. The surrounding area is a common area. There are some duplexes included in this development and the rest are single family lots. The single family lots will be under the authority of the Home Owners Association as will the patio homes and duplexes. Because of physical constraints, some of the parcels should be recommended to have smaller front yard setbacks. The patio homes will have their lawns taken care of and the single family homes will be responsible for their own yard care.

MOTION: A motion was made by Commissioner Poelman to open the public hearing for application #2865. The motion was seconded by Roger Handy and passed unanimously.

Bliss Law, adjacent property owner, came forward and stated that he saw no problem with the revision of the subdivision. He asked about the r-1-10 zoning and if a Planned Unit Development would eliminate the requirements of that zoning. Mr. Teuscher stated that the overall density, in a P.U.D., can only be increased by 10-percent. The r-1-10 zoning still applies. In the case of the patio homes, the minimum lot size of 10,000 square feet does not apply but the overall open space in regards to the patio homes is what will be considered; as that was evaluated, it met the requirements of the Code and the Zone. Mr. Law stated he sent a letter on May 24, 2007 to the Planning Commission. This application was previously approved with deferral of the sidewalk along the property to the highway. Mr. Law said he met with the developer and Ed Lemmon, the adjacent property owner. In that discussion, the developer said they had to put up the money for future improvements, including sidewalk. Mr. Law would like to see the sidewalk installed, at this time, as it would be safer and more cost effective to do so now, rather than in the future.

MOTION: A motion was made by Commissioner Brown to close the public hearing for application #2865. The motion was seconded by Commissioner Poelman and passed unanimously.

The options for this application, at this time, are to continue or recommend approval or disapproval to the City Council. At the last meeting there was a discussion with respect to the fact that the developer did agree that, at this time, they would put the sidewalk in. The discussion centered on the pros and cons of putting a sidewalk in there and if the Commission should recommend approval or deferral and let City Council decide. Commissioner Brown said that it appeared to him, since they are discussing preliminary plat, the Commission could forward this to the City Council with a recommendation to approve and when the final plat is submitted, if the sidewalk issue is still unresolved, at that time, they could make conditions to the approval of the final plat. Mr. Teuscher replied that the applicant has asked that the sidewalk be deferred and in the last motion, in the previous meeting, it was recommended to the City Council that it be deferred. The approvals, made at that time, would move forward with the approval made at this time and the City Council would make that decision with the preliminary plat. The issue of sidewalk would not come back with the final plat. The section of sidewalk that was deferred is on a private piece of property and not part of the subdivision. The biggest issue is that the sidewalk will be higher than the ground. Commissioner Poelman commented that the developer had indicated that he wanted the sidewalk to be deferred. The developer met with Mr. Law and said he would be willing to put in the sidewalk and build the area up so the sidewalk would not encroach on Mr. Law's property.

Commissioner Poelman also commented that when this application goes to City Council, they do not know about all the discussions; only what the Planning Commission recommended. Mr. Teuscher said the Council gets copies of the minutes. Commissioner Poelman said that the minutes are not complete, as in regards to the meeting in June; all her comments are not stated. Mr. Handy commented that was the nature of minutes and that is what happens. Commissioner Poelman stated that she thought that is why it is important for the City Council member, who is assigned to the Planning Commission, to be in attendance so he can take back the input to the City Council in regards to all sides of the issues. Mr. Teuscher said that when an application is forwarded to the City Council, Kevin Lane will usually defer and let him present it and he always brings up the issues.

Steve Hill, Brigham City Council member, commented that the Chairman of the Planning Commission was not attending City Council meetings to represent the Planning Commission's point of view and Mr. Teuscher usually is the one to represent the issues. Mr. Hill also stated that he has other things to do than sit through an additional meeting. He also stated that the Planning Commission has a representative, in the Planning Commission Chairman, as listed on the City Council agendas. Commissioner Nielsen commented that Mr. Hill's point was well taken, and agreed that both bodies need to work together and then moved the discussion back to the subject at hand.

Roger Handy asked for clarification from the developer as to whether or not they want the sidewalk deferred. Mr. Law came back up and stated that the property that was discussed with the developer and which he said he would be putting the money in escrow for anyway, was from the highway up to the driveway entrance into the existing home that is there. There is a pasture there and if Mr. Law agrees to have the fence moved, sufficient to put some fill along there so the sidewalk can be put in, and then the developer would be willing to put it in. Mr. Law agreed to that and that is documented as of May 24, 2007; a copy of that letter was sent to the Mayor, Engineer and the Developer. Mr. Law stated that the developer had asked him to write that letter, documenting that for him. Mr. Law commented that if Mr. Lemmon gave up six feet of his property, then the sidewalk could go all the way up. He also stated that Mr. Lemmon said he would think about it but has not committed to do that. A number of options were discussed between Mr. Lemmon and the developer and the developer was to make some concessions if Mr. Lemmon would put up that six feet of property so the road and the sidewalk could be complete all the way down. Mr. Law said he did not know if the developer has had any input back from Mr. Lemmon or not. It was clarified that the sidewalk in question was on the north side of the street.

Kevin Parkinson, developer, came forward. Greg Hansen and Mike Jensen, Hansen and Associates, also came forward. Mr. Parkinson stated that they had approached Mr. Lemmon several times and he is not interested in discussing it and so they do not believe that is an option. Mr. Hansen stated that there is enough room to put in the standard for a 66-foot right-of-way. They actually have 60-feet and the additional 6-feet will have to come off the north side of the road, at a later date, when it is fully improved; which is where the sidewalk is going to fall. The developer does not have a problem with putting the sidewalk in across the west end on the north side; he is either going to escrow for it or put it in. Mr. Hansen suggested letting the City Council decide if they want sidewalk along that stretch of 1500 North so they can move along. Using a map, the Commissioners clarified the locations being discussed with the engineers and the developer. Mr. Hansen stated that the additional 6-feet will be picked up on the north side, at a later date, when Mr. Law's property is developed. The sidewalk could be put in now but they would run into the improvements that Mr. Law has on his property line. It will be a standard road; the south side will have sidewalk, curb and gutter and on the real narrow spot there will only be curb and gutter on one side.

Commissioner Poelman asked why the City does not allow the street to be narrower when the street where she lives is 37-feet across. Mr. Hansen replied that the City's master plan calls for Highland and the extension of Highland to be a 66-foot wide right-of-way and 1500 North will eventually tie into Highland. Mr. Hansen said the road is going to be as if it is 66-feet; they just do not have the additional 6-feet of right-of-way on the north side. When driving down the road there

will be not be a difference in road width; the only difference is there will be no sidewalk on the north side. The developer stated that they did not see a purpose for that one section of sidewalk, at this time, but they are going to pay for it either way. The sidewalk will go on the other side of the power lines after the right-of-way is obtained. When Mr. Law develops his piece, the trees and walls will be removed; it would not be prudent to remove them, at this time.

Commissioner Nielsen stated that this discussion is similar to the discussion in the previous meeting. The only part of the sidewalk that deferral was being discussed for was the portion on the north side of the western portion of the narrow street; which is the area that deferral was recommended for. Commissioner Poelman suggested that if the road was allowed to be narrower, the entire length of sidewalk would be able to be installed. Mr. Teuscher replied that for this development, narrowing the road would be a burden on the Ravensbergs, if they develop in the future. He also said that in terms of transportation planning, he would not recommend reducing the width of the road but the Commission could make a recommendation to the City Council to amend the General Plan, for that purpose.

Mr. Hansen stated that, from an engineering point-of-view, they had addressed all the Staff comments and asked that the setback be reduced from 30-feet down to 20-feet, in the uphill lots fronting on Highland and Kotter Drive. Some of the lots, in the new design, are steeper than they were previously. Each individual lot will have to have a drainage plan so as to not impact their neighbors with their runoff. The lot sizes are larger, as are the proposed houses.

MOTION: A motion was made by Commissioner Brown to forward to City Council with a recommendation to approve application #2865 subject to compliance with Staff recommendations, approve preliminary plat by addressing all Staff concerns and subject to the stipulations that it must comply with the Staff evaluation, must comply with the Subdivision Ordinance, P.U.D. Ordinance and Zoning Ordinance; also that the setback on the west facing houses on the east side of Highland Boulevard and Kotter Drive be changed from 25-feet to 20-feet, also recommend deferral of the sidewalk on the north side of 1500 North on the west end and subject to the finding of fact that the applicant will comply with the Staff evaluation, that such use will not under the circumstances of the particular case be detrimental to the health, safety and general welfare of persons residing or working in the vicinity or injurious to property or improvements in the vicinity and that such use is in compliance with the Brigham City General Plan. The motion was seconded by Roger Handy.

Discussion: Commissioner Poelman clarified that the setback reduction was from 30-feet to 20-feet. Commissioner Nielsen asked if this motion could be subject to all the same applicable conditions that were in the previous approval. There were a lot of things stated in that recommendation in regards to resolutions with the geotechnical study, storm drainage, UDOT and so forth. Mr. Teuscher replied that it could include all those items. Commissioner Nielsen asked to have all the applicable conditions in the previous approval included in this motion. Commissioner Brown moved to amend the motion as requested with a second by Roger Handy.

The motion passed unanimously.

APPLICATION #2944 / PUBLIC HEARING / KOTTER CANYON P.U.D. SUBDIVISION PHASE II, PRELIMINARY PLAT / 1350 NORTH 225 EAST / JAY KOTTER & DEAN HOWARTH

These two parcels have existing homes on them and will be accessed by a 26-foot private drive, which will be their responsibility. Staff noted that they need to hook up to sewer and water as part of this development.

MOTION: A motion was made by Commissioner Poelman to open the public hearing for application #2944. The motion was seconded by Commissioner Brown and passed unanimously.

There was no public comment.

MOTION: A motion was made by Commissioner Brown to close the public hearing for application #2944. The motion was seconded by Commissioner Poelman and passed unanimously.

MOTION: A motion was made by Commissioner Poelman to forward to City Council with recommendation to approve application #2944 based on the stipulation that it will comply with the Staff evaluation and comply with the Subdivision Ordinance, P.U.D. Ordinance and Zoning Ordinance; based on the findings of fact that the applicant will comply with all the Staff evaluations and that such use will not under the circumstances of the particular case be detrimental to the health, safety or general

welfare of persons residing or working in the vicinity or injurious to property or improvements in the vicinity and that such use is in compliance with the Brigham City General Plan. The motion was seconded by Commissioner McGaha and passed unanimously.

APPLICATION #2942 / CONDITIONAL USE PERMIT – HOME OCCUPATION / PRESCHOOL / 106 NORTH 100 EAST / REBECCA ULLMAN

This is a fairly new home. Jared Johnson, Chief Building Official, had comments and concerns that he was working through on this application. His wife went into labor and his comments were not received in time for this meeting. Those comments are relevant to the issue in terms of occupancy and Building Code requirements. Mr. Teuscher stated that it is important for the Planning Commission to see those comments before making an approval on this application and Staff recommends continuing this to the next meeting. Commissioner Nielsen suggested continuing this to the next meeting so the comments from the Building Official can be submitted and given to the applicant so she can respond to them as well as some of the other comments from Staff; so the Commission can try to provide conditions that will allow the approval to go forward.

Commissioner Brown asked if the applicant was in attendance and if she had any comments before continuing this application.

Rebecca Ullman came forward and stated that she recently purchased the home and will be living there. She said she does not need to have 26 children. She asked for the additional teacher for the purpose of reducing the teacher/student ratio from the State requirement of 1 teacher per every 14 students to half. She understood the Emergency Services concern about the emergency plan with only one exit with 7-steps to go out the front door. There are windows available in the basement which she could have benches, steps or whatever it would take to meet the requirements. She said she is even willing to add an additional door, if necessary. The space downstairs is 1,193 square feet, all of which is usable for the children with the exception of a small area she described as being about the size of the table the Commissioners were sitting around in the Council Chambers.

Ms. Ullman stated that she has worked for different programs that have had 107 children in a facility, 56 children in a home child care center as well as working for different preschools. This will be a 5-day a week program with children in the morning and a different set of children in the afternoon. There will be an option for them to come Monday, Wednesday and Friday, Tuesday and Thursday or all five days. There will not be anymore than 26 children at a time. Ms. Ullman stated she understood there would be a lot of traffic. The additional teacher could park on the street and the first teacher could park in the driveway; there are three parking spaces available. Parents could pull into the driveway. Commissioner Nielsen commented that something may need to be done to stagger arrival times or make an arrangement for staggered drop-off and pickup times to avoid a significant traffic problem 4-times a day. Ms. Ullman said she could organize and manage that so it will be possible. She stated that she talked with Sherrie Curly with the State licensing for Box Elder County and she has passed all the regulations if she wanted to make it a child care center if it went more than four hours in a full day program. Ms. Ullman stated that she did not find that to be cost effective to have a full day program; that's why she chose to do two short sessions. It will be staggered so as to be beneficial to everyone. She was planning on starting in conjunction with the beginning of the school year.

Ms. Ullman was concerned that if this was not approved her time and money would be lost. Mr. Teuscher stated that the biggest issues with this application are the Building Code and Fire Code which will dictate what the occupancy is. There are different ways to address those issues. There is some flexibility in the Building Code. With Community Development the issue is the drop-off and pickup. The building issues are the most relevant issues to determine how many children will be allowed based on the square footage and the access. Mr. Handy commented that unless the Building Code issues are insurmountable, it will not be a matter of whether the application will or will not be approved, it will be a matter of how many children will be allowed. Commissioner Nielsen explained that this type of use is an allowed conditional use within that zone in the city. The Planning Commission needs to take advice from the Staff to be able to set the right conditions for that particular use. Lynda Berry asked if Ms. Ullman had received a license from the State to do this. Ms. Ullman replied that she does not have one and is not required to have one for a preschool. She included the preschool on her homeowners insurance to include \$300,000 to cover injuries and such. There are five 4'x10" wide 2'x11" high windows in the basement with an 11 3/4" ledge on each window. Ms. Ullman said it would be easy to open a window and have the kids step onto the ledge and go out the window if necessary. They would exit into the backyard which is gated and would be a safe place for the children.

Mr. Teuscher commented that there is no licensure with the State for preschools like there is for daycare. If a child is in a home for more than four hours it would fall under daycare which would require a license. Ms. Ullman stated that her preschool hours will be from 8:00 a.m. to 11:00 a.m. or 12:00 p.m. to 3:00 p.m.

MOTION: A motion was made by Roger Handy to continue application #2942 until the August 7, 2007 meeting so the Commission can get the comments of the Chief Building Official before the application is approved. The motion was seconded by Commissioner Brown and passed unanimously.

PUBLIC INPUT:

There was no public input.

DISCUSSION:

Commissioner Brown commented that he had changed employment which may affect his ability to remain on the Planning Commission. In the event that he would need to resign, he would need to send a letter to the Mayor.

MOTION: A motion was made by Commissioner Brown to adjourn. The motion was seconded by Commissioner Poelman and passed unanimously.

The meeting adjourned at 7:50 p.m.

This certifies that the regular meeting minutes of July 17, 2007 are a true and accurate copy as approved by the Planning Commission on August 07, 2007.

Signed: _____

Jeffery R. Leishman, Secretary